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FINCH et al. v. CAUSEY et al.

June 13, 1907.

[57 S. E. 562.]

1. Evidence—Admissions by Agent after Transaction.—Admissions by an agent who had negotiated a lease of premises for the owner thereof that he knew another claimed some interest in the leased premises, made after the lease had been entered into, were inadmissible in an action to rescind the lease on the ground that the lessor had been falsely represented to be the owner of the whole of the leased premises.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 20, Evidence, § 910.]

2. Principal and Agent—Implied Authority—Representations.—An owner of land is bound by the representations of her agent in negotiating a lease thereof.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 40, Principal and Agent, § 583.]

3. Same—Notice to Agent.—Where a lease for 40 years of a wife's land, negotiated by the husband, showed that she was the lessor, though her husband joined with her in signing the same, and the husband's authority was under a power of attorney of record authorizing him to lease her real estate for periods not exceeding 10 years, or to renew leases for terms not exceeding that time, notice to the husband of a defect in the title to a part of the leased premises and of lessees' intention to rescind was not notice to the wife.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 40, Principal and Agent, § 680.]

4. Same—Powers of Agent—Written Authority.—One dealing with an agent acting under written authority must take notice of the extent and limits of that authority.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 40, Principal and Agent, § 531.]

5. Landlord and Tenant—Cancellation—Right to Cancellation.—Where, after a defect in the title to a part of leased premises was known to them, lessees did not notify lessor thereof until they instituted a suit for rescission, more than 18 months after the defect was discovered, and immediately thereafter such outstanding interest was acquired for lessor's benefit, and the lessees were notified thereof, they were not entitled to have the lease rescinded.

MITCHEL v. CITY OF RICHMOND.

June 13, 1907.

[57 S. E. 570.]

1. Municipal Corporations—Gutters—Injury to Pedestrian—Liability.—Where, at night, a pedestrian left a sidewalk not obstructed

or dangerous, but merely unsuitable to walk upon because wet and muddy, and walked in the granolithic gutter extending along the curb, she was guilty of contributory negligence barring recovery for her injury, caused by falling in a sewer opening in the gutter; she being required by law to take notice that street gutters must necessarily have inlets to drain them.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 36, Municipal Corporations, §§ 1678, 1679.]

2. Appeal—Review—Harmless Error.—In an action against a city for injury to a pedestrian, any error, in rejecting evidence as to the city's having repaired the place where she was hurt, that others had fallen in the same or similar places in that vicinity, was harmless, where the jury necessarily found for defendant.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 3, Appeal and Error, § 4193.]

BROWDER *v.* SOUTHERN RY. CO.

June 13, 1907.

[57 S. E. 572.]

1. Witnesses—Impeachment—Inconsistent Statements by Witness—Competency of Evidence.—Where the original declaration, which had been withdrawn, was filed by the plaintiff's authority and upon information to some extent furnished by him, its averments were admissible upon cross-examination for the purpose of impeaching him.

2. Appeal—Harmless Error—Admissibility of Evidence.—In an action for injuries to plaintiff, a railway employee, due to a defect in a grab iron on a car of defendant, testimony of an employee of the defendant as to the durability of the cars belonging to the same lot as the car on which the plaintiff was injured was not prejudicial to plaintiff.

3. Master and Servant—Injuries to Servant—Contributory Negligence—Methods of Work.—Where plaintiff was employed to inspect cars in a railway yard and remedy such defects as he found, it was his duty to inspect the grab iron on the cars to see that they were in a reasonably safe condition before using them, and he cannot recover for injuries received in a fall caused by the breaking of a defective grab iron on a car he was inspecting where he failed to apply the usual tests to the grab iron to ascertain if it was safe.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 34, Master and Servant, §§ 710-722.]

4. Appeal—Harmless Error—Instructions.—In an action for personal injuries, where the plaintiff on his own evidence was not en-